



March 1, 2017

**VIA ELECTRONIC FILING**

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, DC 20554

**Re: Promoting Technological Solutions to Combat Contraband Wireless  
Device Use in Correctional Facilities**, GN Docket No. 13-111, WT Docket  
No. 10-4, ET Docket No. 08-73, RM-11430

Dear Ms. Dortch,

On February 27, 2017, CTIA and member companies met with staff of the FCC's Wireless Telecommunications Bureau to reiterate their support for efforts to combat the use of contraband cellphones in correctional facilities in a lawful manner with minimal impact on legitimate users. A list of meeting attendees is attached.

While understanding that wireless devices are but one piece of the contraband problem faced by prison officials, CTIA explained that it continues to work with corrections officials and managed access vendors. CTIA expressed its support for the FCC's 2013 NPRM proposals to streamline the process for managed access providers to obtain spectrum leases to operate managed access systems in correctional facilities. In the context of Special Temporary Authorizations for managed access solutions using licensed spectrum, CTIA asked the Commission to confirm explicitly that the requirement to obtain and demonstrate carrier consent would continue to apply. CTIA urged the Commission to provide clarity regarding application of the "all calls" rule to spectrum lessees and whether managed access providers would be presumed to operate a private mobile radio service.

Although CTIA believes judicial review resulting in a court order would be part of an optimal process to address contraband devices, we explained the industry's willingness to work with the Commission and corrections officials on a process for cell detection systems to be used to suspend or terminate service to contraband phones. CTIA urged the Commission to address concerns regarding:



(1) ensuring accurate operation of cell detection systems and provision of accurate information from FCC approved law enforcement officials, which may include corrections officials, to guard against inadvertently suspending or terminating service to non-contraband devices;

(2) criminalizing under state law the possession of an unauthorized phone in a correctional facility;

(3) protecting wireless carriers from liability in the event of inadvertent suspension or termination of a non-contraband device, including providing a safe harbor for cooperating carriers;

(4) clarifying privacy obligations attendant to the disclosure of customer proprietary network information or other customer data to be shared among FCC approved law enforcement officials, corrections officials, and wireless providers.

Finally, CTIA reiterated that the use of jamming devices by state and local authorities is unlawful under Sections 302a(b) and 333 of the Communications Act and contrary to the public interest.<sup>1</sup> The authorization of jammers for use inside correctional

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<sup>1</sup> See, e.g., *Promoting Technological Solutions to Combat Contraband Wireless Device Use in Correctional Facilities*, Notice of Proposed Rulemaking, 28 FCC Rcd 6603, 6614 ¶ 19 (2013) (“*Contraband Device NPRM*”) (“the manufacture, importation, marketing, sale, or operation of radio signal jamming devices within the United States is prohibited, except for the sale to or use by the Federal Government”); Letter from Kathryn Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, to Monty Henry, DPL Surveillance Equipment, 23 FCC Rcd 8293, 8295 (2008) (stating that “there is no [statutory] exemption allowing the marketing or sale of unauthorized radio frequency devices to state and local law enforcement agencies.”); Letter from James D. Schlichting, Acting Chief, Wireless Telecommunications Bureau, to Mr. Howard Melamed, CEO, CellAntenna Corporation, 24 FCC Rcd 3246, 3248 (2009) (denying CellAntenna’s request to conduct a demonstration of directional jamming equipment at a correctional center that is under contract with the federal government, in part, “because CellAntenna is not a federal entity subject to any statutory exception”); FCC, Briefing Sheet, *Putting an End to Illegal Cell Phone Use in Prisons* (2010) (“The FCC cannot waive this statutory prohibition absent a change in the law by Congress.”), <https://transition.fcc.gov/pshs/docs/summits/Combating-Contraband-Cell-Phones-in-Prison-Handout-v4.pdf>. See also 47 U.S.C. § 333; *Contraband Device NPRM* ¶ 77.



facilities also could have the unintended consequence of putting outside responders at risk in the event of an emergency, such as a prison riot.<sup>2</sup> For these and other reasons, the Commission has correctly declared that jammers are “inherently unsafe” and “per se illegal because they are designed to compromise the integrity of the nation’s communications infrastructure.”<sup>3</sup> In fact, the Commission has concluded in a string of enforcement decisions that jamming devices cannot even be certified or authorized under the Commission’s rules “because their primary purpose is to block or interfere with authorized radio communications.”<sup>4</sup>

Pursuant to Section 1.1206 of the Commission’s rules, CTIA is filing a copy of this letter in ECFS. Please do not hesitate to contact the undersigned with any questions.

Sincerely,

/s/ Brian M. Josef

Brian M. Josef

Assistant Vice President, Regulatory Affairs  
CTIA

cc: Meeting Participants

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<sup>2</sup> See, e.g., *Warden Among those Hurt in Prison Riot*, WKRG.com (Mar. 12, 2016) (describing a prison riot that necessitated a response from several outside law enforcement agencies), <http://wkrg.com/2016/03/12/violence-at-holman-prison/>.

<sup>3</sup> *The Supply Room, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 28 FCC Rcd 4981, 4983-84 ¶ 7 (2013).

<sup>4</sup> E.g., *R&N Manufacturing, Ltd.*, Notice of Apparent Liability for Forfeiture Illegal Operation of Signal Jamming Device, 29 FCC Rcd 3332, 3335 ¶ 8 (2014); *The Supply Room, Inc.*, Notice of Apparent Liability for Forfeiture and Order, 28 FCC Rcd at 4983 ¶ 7 (2013); *Taylor Oilfield Manufacturing*, Notice of Apparent Liability for Forfeiture and Order, 28 FCC Rcd 4972, 4975 (2013). See also *Contraband Device NPRM* ¶ 19, n.74 (“in none of the FCC rule parts has the Commission authorized the operations of jammers or prescribed technical standards for their operation”).



### **February 27, 2017 Meeting Participants**

#### **Federal Communications Commission – Wireless Telecommunications Bureau**

Nese Guendelsberger

Melissa Conway (via telephone)

Anna Gentry

Roger Noel

Suzanne Tetreault

Mary Claire York

#### **CTIA**

Brian Josef, Assistant Vice President, Regulatory Affairs

#### **CTIA Member Companies**

Brian Benison, AT&T

Michael Goggin, AT&T

Kyle Entz, Sprint

Eric Hagerson, T-Mobile

Trey Jackson, T-Mobile

Tamara Preiss, Verizon